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ABSTRACT

Although government and order in colleges are the object of almost constant public discussion, there is little public discussion of the governing boards themselves. "Regent watching" should be encouraged because the regents, or the trustee model of university government, is better than its alternatives, and it should be studied, criticized, and improved. The theory of the board can be likened to that of a supreme court. Both are designed to achieve the ideals of constitutional independence and policymaking protected from the passions of the majority of the moment. Much of the history of the American college and university is told by the relationships that boards of trustees create to administer their trust. The four distinct stages that take place when a board-university relationship becomes troubled are presented, along with historical examples of exceptional regents administration. (Author/PG)

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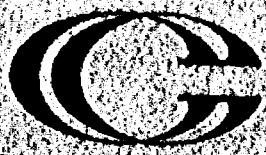

CARNEGIE COMMISSION ON HIGHER EDUCATION

REGENT WATCHING

by EARL F. CHEIT

1971

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Regent Watching

Earl F. Cheit

Although government and order in colleges are the object of almost constant public discussion, there is little public discussion of the governing boards themselves. If the subject of trustees comes up at all, it usually involves announcing that the board system is no longer viable, or revealing that many board members are rich.

Actions of students have in the last several years become a main source of news and public concern. That concern has stimulated a new form of social analysis: student watching, an activity devoted to producing profound reasons for aberrant behavior. Student watching has produced some creative journalism, some bad movies, and some big new markets -- in clothing, entertainment, and hair styling. But most of all, it has served a serious public psychological need. When there is a major new phenomenon afoot which people cannot understand -- as in student protest and disruption -- they demand a rational explanation that will make sense of it. . . .

Unfortunately, because the purpose of student watching is to explain group behavior that is not clear, watching students can be dangerous. It is too easy to provide explanations that suit one's own purposes. Thus, for those who believe that "society" rather than the individual is responsible for behavior, a siege of window smashing yields a predictable plaint: "Where have we failed?" "What are they trying to tell us about injustice?" These student watchers have been busy collecting our failures and

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seeking injustices, to adorn broken windows. Since there is no shortage of failures and injustices, or of broken windows, they have been among the busiest student watchers. . . .

Perhaps a more serious problem than the creation of explanations that serve one's own purposes is that student watching has tended to absorb all of our attention. The sport has even gone professional. There are White House appointments, commissions, and professional staffs. In fact, of course, the successful operation of a university depends upon many groups working in intricate relationships. And no one is more important in establishing and maintaining those relationships than the Board of Regents.

I have for some time thought it strange that although government and order in colleges are the object of almost constant public discussion, there is little public discussion of the governing boards themselves. If the subject of trustees comes up at all, it usually involves announcing that the board system is no longer viable, or revealing that many board members are rich.

I am encouraging Regent watching today not to create new markets or to emulate the hair styles of the rich. I do so because I think the Regental, or trustee, model of university government is better than its alternatives and it should be studied, criticized, and improved. A recent study of the trusteeship of colleges and universities[1] concludes, "It has come into vogue these days to find that conventional modes of college governance are no longer viable." (p. 146) On campus there are those who believe that power to govern the University should be vested in faculty and students. So we get witty articles from J. K. Galbraith saying "The governing board is not yet a harmless anacronism. In many respects, it remains a barrier to rational progress." Off campus there are those who want the people to govern the University through the political process. So, at every legislative session we get bills to reduce the terms and erode the autonomy of the Regents.

As a faculty man I should say that if I had to choose between university government by the faculty or by the political process, I would choose the faculty. But I would prefer trustees to either. Winston Churchill's description of democracy states my views about Regents and trusteeship: it is the poorest form of government, except for all the others. The study of trustees, which I quoted earlier, says, "much of the misunderstanding about trustees derives from the fact that few people -- including, I must say, no small number of trustees -- know what they do." (p. 149)

[1] *The Trusteeship of Colleges and Universities*, Morton A. Rauh, McGraw Hill Book Co., New York, 1969. (A summary of Mr. Rauh's survey was published in *AGB Reports*, January 1969, Vol. 5.)

As a supporter of the trusteeship concept, I am not worried that it is about to be abolished, but I am worried that it is not being strengthened. Not only is there lack of public understanding of what the board is supposed to do, there is reason to be concerned about the ability of boards to lead their universities, and to be concerned about the actions of individual trustees. Therefore, I should like to examine these three things: what is the Board and its trust? Why does a university get in trouble with its board and how can they get out of it? And, finally, what should those of us who support the trusteeship concept, expect from our trustees?

II

What is the Board of Regents? This sounds a bit like the question asked the host who invited his guest to listen to some Brahms: "What are Brahms?" It is easier to tell what are Regents.

Under the California constitution, Article 9, Section 9, the University is "a public trust to be administered by . . . the Regents . . . with full powers of organization and government, subject only to such legislative control as may be necessary to insure compliance with the terms of the endowments of the University and the security of its funds. . . . The University shall be entirely independent of all political or sectarian influence and kept free therefrom in the appointment of its regents and in the administration of its affairs. . . ."

The constitution gives the Board of Regents governing power and makes it autonomous. The importance of this constitutional autonomy cannot be overemphasized. It represents an ideal – a genuinely independent public university. It embodies one of the most advanced concepts a free people can adopt – that of the self-denying ordinance. Under the constitution, the people have created a university, but have denied themselves direct control over its affairs. Instead they rely on the concept of the public trust, whose trustees, the Regents, are expected to protect and develop it wisely, free of personal motives of gain, exploitation, or bias.

The theory of the Board can be likened to that of a supreme court. Both are designed to achieve the ideals of constitutional independence, and policy making protected from the passions of the majority of the moment.

People can't always live up to their ideals, but they, and especially their leaders, must never stop trying. President Roosevelt, like President Nixon after him, discovered that when a president doesn't try to strengthen the ideal of the Court, people of all views and from all over the nation will defend the ideal.

This is the approach that must be taken with the Regents. They must feel our support when others try to undermine their constitutional autonomy; and they must be subjected to searching criticism lest through

mediocre performance they stop striving for the ideal entrusted to them. In the case of the Court, there are established sources of responsible criticism in the bar and in the law schools. In the case of the Regents, although the press covers their meetings, it does not generally promote criticism in this sense. In the administration of its trust, the Board is not well served by the lack of a corps of responsible Regent watchers.

III

Much of the history of the American college and university is told by the relationships which boards of trustees create to administer their trust. In the early colleges, the locus of authority was not the trustees at all, but the faculty. That authority was shifted to trustees, and must have been solidly in their grasp by 1888, when President Francis L. Patton, in his inaugural address at Princeton, announced that "College administration is a business in which the trustees are partners, professors the salesmen and students the customers." In the years since, trustees have followed more modern concepts of organization. They have delegated operating authority to administrators, have delegated curriculum and credit authority to faculties, and have created joint administration-faculty roles in personnel matters. Boards retain final power, and are concerned with questions of leadership, direction, and finance – the basic obligations of trust.

When a university is operating happily, these board-university relationships are taken for granted and do not get much attention. When there is serious conflict, anywhere in the university, it soon involves the question "who has the power to decide?" If such conflicts reach the governing board and remain unresolved, they can set in motion events that will eventually impair the board's leadership role. From my observations of academic institutions in these recent difficult years, I think it fair to say that when a board-university relationship becomes troubled, it is likely to follow a downward pattern, with four rather distinct stages. Boards and universities move from one stage to the next, not necessarily because they consciously want to, certainly not because they want things to get worse, but often because once the cycle gets started, it becomes self-energizing.

Stage One. One of the first outward signs that trouble has already started is that the board frequently says "no" to administration, to faculty, to students. If a board is saying no, it is the signal that the relationship is in trouble – stage one.

During the past few years, some of the most publicized decisions have essentially been those saying no. Students are in the street saying no. The Chancellor says no, they can't say no that way. The academic senate passes a resolution saying no to the way the Chancellor said no to the students, and also saying no to

the tactics of the students (but commending their goals to the Regents). The Regents then pass a resolution. It says no to the Senate and no to a few other things as well. The irony is that while all of this is going on, everyone is saying that the main need before us is for change.

Why does a board say no? Because it sees problems it wants solved, but it has delegated the authority to solve them to others. Delegation is necessary for a large modern organization, but it relies on shared values and on an understanding that different levels of authority are subject to different pressures. The trouble actually starts when the values are no longer generally shared, or when one loses sight of the other fellow's situation. The difference may be osbcured from public view for some time, but if it is not resolved, one day the decisions of the administration or the faculty will seem obviously wrong to the board – and the board will feel it must effectuate its will. Being the final authority and still having the power to say no, it says no. Many colleges and universities are governed by what could be called the no-power structure.

At this first stage of trouble the situation can be repaired if there is a prompt reconciliation of values, or if the different levels of authority can make a candid and reasonable compromise of their values. Otherwise in order to effectuate its will, board will have to withdraw delegations and get into administration. When this happens, board-university relationships have moved into the second stage of trouble – the move into administration.

Stage Two. The move into administration is accelerated by attacks on the university. Campuses have been the subject of attack from within and from without. These attacks concern many of the nation's problems and may involve the very conflicts of values that started stage one. When organizations come under attack, they centralize, both to strengthen themselves and because more and more decisions are bucked to higher levels. Thus the board's move from policy into administration is accelerated, and it becomes concerned about details.

The move into administration is further accelerated by a fear boards have, that the decisions they make are predetermined by others and therefore involve a sense of unreality. Robert Townsend, the retired Avis whiz kid, tells us there is good reason why board members have this fear. He says, in his recent book *(Up the Organization)*, that all the large, successful companies he knew did what they could to "turn their boards of directors into non-boards."

The move into administration is further aggravated by the operation of Cheit's third law, which holds that when a board is frustrated in effectuating its will on a given

policy, it will find another policy where it can effectuate its will. Boards reach out for new things to decide and begin (even) to feel responsible for things they are not deciding.

I am quite sure that most boards realize how undesirable it is for them to move into administration, and how much this demoralizes the academic administration; and they feel trapped by their inability to get out again. But the fact is that if a board does not get out promptly, it will move into the third stage in a troubled relationship with its university – the stage in which it stops leading.

Stage Three. It is always difficult to lead large organizations. Events often overtake procedures and in the case of universities there are no fixed criteria – such as a profit and loss statement – of successful performance. This difficulty is increased when the board of directors is centralizing the organization and getting into administration, because then the major board problems get buried by the administrative problems, which come in a rapid flow of questions for decision. These questions consume much of the regular agenda, and the board finds it impossible to devote enough time to thoughtful discussions about growth, direction, finance, and priorities.

By failing to devote continuing attention to these broad questions a board conceals divisions of view about direction and priorities. But these divisions are there, and they concern what kind of university the trustees really want to have. The differences are not revealed by discussion, which is about administrative questions, but are expressed by symbolic means. They constitute the board's hidden agenda. Newer board members, lacking the benefit of detailed and thoughtful discussion by their senior colleagues, become aligned with views about the university through votes on other matters, usually things symbolic of a division of views on the fundamental issue of what kind of institution the university should be. This is a crucial moment in stage three. Unless by force of personality a board member – perhaps the president or the chairman, one whom history will remember – can bring the board back to its overall leadership role, it will soon find that it is so divided about the university it wants to lead, that for this reason, too, it is unable to lead.

When this happens, the board will avoid issues of planning and educational quality, and will eventually deal with them only when forced to under pressure, such as a budget deadline, which further deepens the division.

Thus unable to formulate a leadership position inside the board room, outside the board room the board becomes less and less able to perform one of its most important trust functions – that of being a protective buffer between the institution and those public passions of

the moment. A successful board buffers by insuring that university policies are informed by the needs of the supporting community, and by interpreting the university and its needs to the supporting community. When a board ceases to be a buffer, it becomes increasingly estranged from the campus and is moving into the final, fourth stage of a troubled board-university relationship.

Fourth Stage. In the fourth stage the board views the university entrusted to it with increasing suspicion, even hostility. Obviously, boards of trustees are not alone to blame for their estrangement from campuses, but the situation is unhealthy. Because trustees are isolated from campuses, students consider them irrelevant and their actions provocative; faculty and staff see them as remote. Trustees see themselves governing hostile territory, and react accordingly. In private they stop defending the ideals of the university and start agreeing with their critics. Administrators must not only bridge this gap, but must appear credible to both sides, trustees and campus. Contrary to popular belief, it is not facing down a confrontation, or calling the police, or getting threatening phone calls in the night that undermines administrative capacity and initiative. It is caused by having to worry about two kinds of confrontations, one in the street, another in the board room.

The final phase of this fourth occurs when the board no longer functions in its constitutional role as independent trustees. It concludes that its role will be best served by doing what the street radicals keep calling for: give all power to the people. Let the public punish this strange, arrogant, and ungrateful place.

In fairness I must state that I know of no university whose problems fit this scenario precisely – but I must add that I know many for which it is in some degree relevant. I must also add that I have been describing a process in the life of any organization; I have not been trying to analyze who is to blame for it. The fact is, that if a board's relationship to its university is troubled and the ability to lead is impaired then the blame must be widely shared, by faculty who have been provocative or indifferent, by students who have been reckless or indifferent – and by administrators, alumni, and many others too. Nevertheless, there is something that boards themselves can do to reverse this downward progression. They can do some things regardless of their convictions about particular issues. It is about the Board's opportunity for constructive action that I am talking today. A full restoration of good board-university relationships will not be accomplished by changes in attitudes of students, faculty, and administrators alone.

IV

What should a Regent watcher ask the Regents to do? He should

ask them to do those things their predecessors did that makes us admire them. In over 100 years of University history, there are plenty of lessons. I have chosen four and added one of my own.

The first thing every Regent must do is do his overall job. He must give proper weight to needs of the university, and not see his role simply as representing the anxieties of the public to the university. This does not mean being insensitive to the burden on taxpayers. But the role of representing taxpayers is played by every elected official in the state, and it is not the Regents' primary responsibility. The Regents' main role is representing the aspirations of the university to the people. Fortunately, from among their predecessors there are many models for them to follow. For starters, I recommend looking at the Board in power in 1935.

Historically, the Regents of the University of California undertook an audacious experiment – to create a mass system of higher education at low cost to the student, which would compete on quality terms with the best, elite private institutions. And they succeeded. President Sproul's biographer tells us that a key turning point came in the depression year of 1935, when the university's budget was cut. President Sproul pleaded for more money. Why? To raise the University to levels competitive with the best universities in the country, to recruit the best faculty. But, he was told, "There are unemployed teachers in California. Hire them." With the courageous, solid backing of the Board of Regents, he took his plea back to the legislature and the governor, and argued that the University must set its sights nationally and compete with the best institutions. The University got a supplementary appropriation. The courage of that Board helped create a university which ranks as the best system of its kind, and the taxpayers of California, too, have been among its principal beneficiaries. The Board of 1935 was doing its overall job.

There is a quick shorthand way to tell if a Regent is doing this overall job. It is, "What does he put before the 'but'?" If he says, "California needs high quality education, but taxes are too high," he is representing taxpayers. If he says, "Taxes are very high, but we need a high quality system of education," then he is representing education. That is the role people of the State have entrusted each Regent to play, and it is the ideal his predecessors fought for.

The second thing history tells us to expect from our Regents is a personal commitment to higher education and the goals of the University. As a land-grant institution, it owes its origins to two great goals: extending the opportunities for access to higher education, and providing meaningful service to the people. Today the distinguishing characteristics of California's University are its excellence, and its diversity.

Trusteeship of an institution with these characteristics and goals requires a commitment to them. There will be differences of view on how to attain them, and on specific priorities, but there must be the vision of excellence, diversity, opportunity for access, and service. Again, there is no shortage of models. Let me cite one example. Even after Theodore Meyer retired from the Board of Regents, he continued to work for these goals. I can testify to the long day we spent together, hats in hand, seeking foundation money for an important service project. All he got was a careful hearing, but the rest of us got an example of a Regent's personal commitment.

A third thing that we learn from the University's history is the importance of conducting Board business in a Regental manner. There are three aspects to this. First, in his conduct each individual Regent must be governed by the unwritten conditions of his trust. Second, in his dealings with administrators and colleagues, he should show that respect for other people which becomes the dignity of his office. The third aspect is Board unity. Again there are excellent models. When Regent Gerald Hagar was Board chairman, his overriding rule about any action was to ask: Is it good for the future of the University? How can we maintain unity for that purpose on this Board? He never let the Board forget that it was created to strive for an ideal.

Fourth, history teaches us that a Regent must have a theory about governing a university with which the institution can live and develop. For some years Sewell Avery ran a mail order house by applying the policies for running an investment bank. He proved the institution can still survive, but he also proved that the costs are very high.

The same is true of a university. The Regents have final authority, and that is as it should be. But successful board-university relationships require not just the simple assertion of authority, although that is sometimes necessary. In a university, influence decides more things than power. The Board must give thoughtful attention to the questions: who by virtue of expertise or experience should have influence? How can this influence be responsibly incorporated into the constitutional power relations? No one understood this better than Regent Donald McLaughlin. When he retired from the Board, he returned to faculty emeritus status, and he told his Board colleagues, only partly in jest, that it would be good to be getting back to the university's governing body.

Finally, out of my own experience as Executive Vice Chancellor at Berkeley, I would add that a Regent watcher should ask of his Regents, have they learned the two major tactical lessons of the past six years? First, that a totalitarian appetite grows when it is fed; and second, that evil can be enlarged by

the way it is fought. By and large, across the country administrators seem to have learned the first lesson more slowly than their boards. But regardless of when they learned it, they found it harder to apply, because of trustees' poor understanding of the second.

I believe that a good board-university relationship cannot be restored until there is extensive board-administration exploration of these two points, and agreement in outline as to what they mean in operation. If I understand the current mood among faculty and students, there is growing determination to insist on responsible conduct and not blandly to accept the war and race as excuses for misconduct in the University. This is an opportune moment for that view to begin to prevail, but everyone connected with the University is going to have to do his part.

V

I have been talking about what to ask of Regents. I should conclude by talking about what to ask of ourselves as Regent watchers.

First, be a generous Regent watcher. A generous student watcher assumes that most students are in school to study and make something of themselves besides a professional nuisance. Make an analogous assumption about the Regents, and you will be correct. If you assume that most Regents work to devote much time to their duties, and mean well (in terms of their vision of the University), you will be correct.

Second, be an interested, but not humorless Regent watcher. Student watchers are, above all, humorless. Every student act, no matter how ridiculous, must be treated with total seriousness. I have never found it possible to follow that rule in watching students, and believe it would clearly be impossible in the case of Regents. So when the absurdity of the situation you are watching hits you, don't fight it.

Third, be willing to suspend judgment for a while. Regents aren't nearly as visible as students, or faculty, or even presidents. Their actions, and the consequences of their policies and decisions, come out in leaks to press, denied and set straight, clarified in press conferences, explained by spokesmen for the University. It takes a while to find out what really happened. Don't assume the worst; you may be surprised.

Finally, be a nonpolitical Regent watcher. Unlike student watching, in Regent watching all matters of political conviction must be set aside. Political preferences are irrelevant to Regent watching, and can mislead you. When a local Republican Chairman was asked how he liked the stage performance of FDR's life, "Sunrise at Campobello," he replied, "I never have liked Ralph Bellamy's acting." Watch the performance, not the politics.

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